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9  
10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF WASHINGTON

12 TAYLOR LEYDE,

13 Plaintiff,

14 vs.

15 BNSF RAILWAY COMPANY, a  
16 Delaware Corporation,

17 Defendant.  
18

No.

COMPLAINT AND DEMAND FOR  
JURY TRIAL

19 COMES NOW the Plaintiff, Taylor Leyde, and for his claims and cause of  
20 action against Defendant states and alleges as follows:  
21  
22

23 COMPLAINT AND DEMAND FOR JURY TRIAL  
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*Winston & Cashatt*  
A PROFESSIONAL SERVICE CORPORATION  
1900 Bank of America Financial Center  
601 West Riverside  
Spokane, Washington 99201  
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1           1.     That at the time of the events giving rise to this suit, Plaintiff was a  
2 resident of Spokane, Washington.

3           2.     Defendant BNSF Railway Company (“BNSF”) was and is  
4 headquartered in Fort Worth, Texas, and is a common carrier for hire by rail in and  
5 throughout the several States of the United States and for the purpose of operating  
6 said railroad did and does own, possess, operate and maintain, railroad cars, tracks,  
7 and other equipment in and about the State of Washington.

8  
9           3.     That at all material times, Plaintiff, was employed by the Defendant in  
10 activities which were in furtherance of Defendant's interstate operations as a  
11 common carrier for hire.

12  
13           4.     The Court has jurisdiction through 45 U.S.C. ‘51 et seq., commonly  
14 known as the Federal Employer’s Liability Act (“FELA”) and this action is timely  
15 commenced under said statute.

16  
17           5.     The Court also has jurisdiction through 49 U.S.C. § 20109, commonly  
18 known as the Federal Rail Safety Act (“FRSA”) and is timely commenced  
19 thereunder. Leyde filed a complaint with the Secretary of Labor alleging that BNSF  
20 violated 49 U.S.C. § 20109. More than 210 days have elapsed since Leyde filed that  
21

1 complaint, the Secretary of Labor has not issued a final decision, and there is no  
2 allegation or proof that the delay is due to any bad faith on the part of Leyde.

3 6. On or about August 14, 2020, Plaintiff was on-duty working with BNSF  
4 in its Yardley railyard, in Spokane, Washington.

5 7. While on duty, Plaintiff was required to walk along BNSF's tracks in  
6 the yard to perform switching duties. While performing his duties, Plaintiff tripped  
7 on debris and uneven ground and struck his head and was rendered unconscious.  
8

9 8. Plaintiff suffered serious injuries because of BNSF's negligence and  
10 violations of Washington and Federal safety laws.

11 9. Leyde completed a company personal injury report documenting his  
12 injury and the conditions that caused his injury on October 16, 2020.  
13

14 10. In September 2020, BNSF received an activity prescription form  
15 reflecting that Leyde could not return to work until at least November 2020.  
16

17 11. Despite having notice Leyde could not work, BNSF repeatedly  
18 contacted Leyde to return to work.  
19

20 12. In March 2022, BNSF extended Leyde's leave of absence until May  
21 2022.  
22

1           13. In June 2022, BNSF accused Leyde of not providing information to  
2 justify his continued medical leave.

3           14. In July 2022, Leyde provided documentation indicating that his doctors  
4 had not cleared him to return to work.

5           15. BNSF knew Leyde was following his doctor's treatment plan, but  
6 noticed him for a company discipline hearing.

7           16. Leyde's company discipline hearing was postponed twice and  
8 ultimately set for September 2022.

9           17. Leyde did provide information from his doctors to BNSF indicating that  
10 he could not return to work.

11           18. BNSF terminated Leyde in September 2022 for allegedly failing to  
12 provide that documentation.

13           19. Leyde was following the orders or treatment plan of a physician by not  
14 engaging in railroad work at the time of his injury.

15           **FIRST CAUSE OF ACTION: FELA NEGLIGENCE: 45 USC §51, et**  
16 **seq.**



1       20. Plaintiff hereby incorporates by reference paragraphs 1 through 19  
2 above.

3       21. The injuries sustained on August 14, 2020 by Plaintiff Leyde and the  
4 resulting damage came as a result, in whole or in part, of the negligence of Defendant  
5 BNSF its agents, employees, and officers and in violation of the FELA, 45 U.S.C §  
6 51 et. seq., to wit, Defendant BNSF was negligent:

- 7
- 8           a. In failing and neglecting to provide Plaintiff with a reasonably safe  
9 place to work as required by law;
- 10           b. In negligently creating and permitting dangerous, hazardous, and  
11 unsafe conditions to exist in its yard and its walking and working  
12 areas where its employees were required to work;
- 13           c. In violating WAC §§ 296-860-200, 296-860-20020, 480-60-035;
- 14           d. In violating its internal rules submitted for approval to the FRA;
- 15           e. In violating 49 C.F.R. Parts 213, 214, and 217;
- 16           f. In failing and neglecting to inspect, maintain, and repair its  
17 premises, work areas, and properties;
- 18           g. Failing to provide adequate manpower and resources to inspect and  
19 maintain its switching, walking, and working areas;
- 20
- 21
- 22
- 23
- 24

1 h. Failing to provide adequate lighting;

2 i. Failing to warn Plaintiff of the hazardous walking and working  
3 conditions and  
4

5 j. Other acts of negligence.

6 22. Due in whole or in part to Defendant's negligence Plaintiff has  
7 sustained permanent and disabling injuries to his body including, but not limited to  
8 a traumatic brain injury, and has suffered and will continue to suffer bodily and  
9 mental pain and loss of enjoyment of life.  
10

11 23. Due in whole or in part to Defendant's negligence, Plaintiff sustained  
12 loss of wages and fringe benefits, and may continue to sustain a loss of wages and  
13 fringe benefits into the future; may continue to suffer permanent loss or diminution  
14 of earning capacity; and that Plaintiff incurred and will incur into the future expenses  
15 for medical, hospital, nursing, and related care, the exact amount of which expenses  
16 Plaintiff is unable to accurately estimate and determine at this time.  
17

18 **COUNT II - VIOLATION OF WASHINGTON WALKWAY STANDARDS**  
19

20 24. Plaintiff incorporates and realleges paragraphs 1 through 23 as if fully  
21 pled in Count Two.  
22

1        25. Defendant failed to provide Leyde with walkways that conformed to  
2 the requirements set forth in WAC 296-860-200, 296-860-20020, 480-60-035.  
3 Specifically, but not limited, Defendant BNSF did not construct and maintain a  
4 walkway for Leyde to safely perform his work, did not have a reasonably smooth  
5 walking surface, and even if the area where Leyde had to walk in performance of his  
6 duties could be considered a walkway there was uneven and unstable ground and  
7 debris in said walkway and work area. These conditions also violate BNSF internal  
8 standards and 49 C.F.R. Parts 213, 214 and 217. Said violations implicate the  
9 provisions of 45 U.S.C. §53.  
10

11  
12        26. Due in whole or in part to Defendant's violations of the WAC and Code  
13 of Federal Regulations, Plaintiff has sustained permanent and disabling injuries to  
14 his body including, but not limited to his head, brain, and the internal parts thereof  
15 and other parts of his body, and has suffered and will continue to suffer bodily and  
16 mental pain and loss of enjoyment of life.  
17

18        27. Due in whole or in part to Defendant's violations of the WAC and Code  
19 of Federal regulations, Plaintiff sustained loss of wages and fringe benefits, and may  
20 continue to sustain a loss of wages and fringe benefits into the future; may continue  
21 to suffer permanent loss or diminution of earning capacity; and that Plaintiff incurred  
22



1 and will incur into the future expenses for medical, hospital, nursing, and related  
2 care, the exact amount of which expenses Plaintiff is unable to accurately estimate  
3 and determine at this time.  
4

5 **COUNT III - VIOLATION OF FEDERAL RAIL SAFETY ACT**

6 1. Plaintiff incorporates and realleges paragraphs 1 through 27 as if fully  
7 pled in Count Three.  
8

9 2. Leyde engaged in various incidents of protected activity, as statutorily  
10 defined by the whistleblower-protection and anti-discrimination provisions of the  
11 FRSA including but not limited to:

12 a. Reporting a workplace injury;

13 b. Following the treatment plan of his physician or doctor  
14

15 3. BNSF, its officers, and/or its employees took adverse action against  
16 Leyde by:

17 a. Noticing his company discipline hearing;

18 b. Holding his company discipline hearing;  
19

20 c. Terminating his employment.

21 4. At the time BNSF took these adverse actions, the railroad was aware  
22 that Leyde had engaged in one or more instances of protected activity.  
23



1           5.     BNSF's decision to discriminate and retaliate against Leyde was due,  
2 in whole or in part, to him engaging in protected activity. This is evidenced by:

- 3           a. Close temporal proximity between the protected activity and the  
4           adverse action;  
5  
6           b. BNSF's animus toward Leyde;  
7  
8           c. BNSF's selective and inconsistent interpretation and enforcement of its  
9           policies;  
10          d. BNSF's shifting reasons for its actions;  
11          e. The falsity of BNSF's stated justification for its action; and  
12          f. BNSF's change in attitude toward Leyde after engaging in protected  
13          activity.

14  
15          6.     As a result of BNSF and its decision-makers' actions, Leyde suffered  
16 damages, including:

- 17          a. Loss of wages and benefits;  
18          b. Emotional distress and loss of enjoyment of life;  
19          c. Other consequential damages, including litigation costs and attorney  
20          fees.  
21  
22

1 **WHEREFORE**, Plaintiff prays for judgment against the above-named Defendant,  
2 BNSF Railway Company, a Delaware corporation, for recovery as follows:

- 3 a. An award of back pay and for lost earnings with interest appropriately  
4 compounded;  
5  
6 b. An award of benefits lost, including credit for months Leyde would  
7 have earned with the Railroad Retirement Board absent BNSF's  
8 unlawful termination of his employment;  
9  
10 c. An award of emotional distress, pain, suffering, and loss of enjoyment  
11 of life;  
12  
13 d. An award for retraining, tuition, and/or relocation costs;  
14  
15 e. An award for other compensatory damages, including litigation costs  
16 and attorney fees;  
17  
18 f. An award for any other costs, disbursements, and interest allowed by  
19 law and/or equity.  
20  
21 g. Further relief requiring BNSF to:  
22  
23 i. Immediately reinstate Leyde to his former position at the  
24 applicable rate, including all rights, seniority, and benefits –  
including applicable overtime – that Leyde would have enjoyed

1 had BNSF not terminated him or, in lieu of that, front pay in an  
2 amount to be determined by a jury;

- 3 ii. Permanently posting notice of employee's rights under the FRSA  
4 in BNSF workplaces, as required by OSHA; and  
5  
6 iii. Train its employees and officers on employee's rights under the  
7 FRSA.

8 7. Leyde prays for an award of punitive damages not to exceed  
9 \$250,000.00 under 49 U.S.C. § 20109 to punish BNSF for its unlawful activity and  
10 deter such conduct in the future.  
11

12 **PLAINTIFF DEMANDS TRIAL BY JURY.**

13 DATED this 11th day of August, 2023.  
14

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